IHEEM Disciplinary Regulations

Pre-Amble

An essential function of a professional institution is self-regulation: the setting and regulation by members of appropriate standards of professional competence and conduct. Regulation is voluntary, non-statutory and part of the membership contract between the Institute and the member. Disciplinary procedure is therefore not constrained by legal provisions or precedent related to statutory tribunals except insofar as such matters may have been imported into the contract.

Professional Misconduct

1. In the following the expression ‘professional misconduct’ means:

   a. any breach of the provisions of the Articles of Association or of any regulations or rules made thereunder; and
   b. any breach of the Code of Professional Conduct; and
   c. any other conduct indicating unfitness to be a member.

Disciplinary Procedure

2. When an allegation of professional misconduct against a member has been received, the Chief Executive shall so inform the member, and:

   a. The Council of the Institute (The Council) shall then appoint;
      i. an Investigating Panel consisting of not fewer than three members of the Institute to investigate whether a breach of the Code of Professional Conduct may have occurred.
      ii. a Disciplinary Panel consisting of not fewer than five members of the Institute, to hear and adjudicate any charge of professional misconduct arising from the Investigating Panel’s enquiries.
   b. No member shall be eligible to serve both as a member of the Investigating Panel and of the Disciplinary Panel at the same time or to hear a charge of professional misconduct arising out of an investigation made when they were a member of the Investigating Panel.
Investigating Panel

3. The Investigating Panel shall make enquiries into the allegation by correspondence or otherwise, as it sees fit.

4. At the conclusion of its enquiries, the Investigating Panel shall decide:
   a. to refer the matter to the Disciplinary Panel; or
   b. that no prima facie case of professional misconduct has been established; "no case to answer”.

The decision of the Investigating Panel shall be communicated to both the member and the complainant. Such communication will be made in writing by the Chief Executive.

5. If the Investigating Panel refers a matter to the Disciplinary Panel, it shall make a specific charge or specific charges of professional misconduct in writing against the member whose professional conduct is in question, together with a report of the enquiry made by the Investigating Panel and any relevant correspondence and documents, copies of which shall be supplied to both the Disciplinary Body and the member at the same time.

Disciplinary Panel

6. A member charged before the Disciplinary Panel shall be given reasonable notice of the charge and shall be entitled to be present and represented at the hearing, to challenge any evidence of misconduct on their part, to produce such evidence as they may think fit, and to be heard either in person or through the representative acting in their defence.

7. Parties involved should be entitled to invite to the hearing either:
   a) a lawyer, whom they may pay to represent them, including to speak on their behalf; or
   b) a non-lawyer “McKenzie Friend”, who may support, quietly advise and take notes for them but may not speak on their behalf.

In the case of legal representation, reasonable advance notice should be given.

8. The Disciplinary Body shall hear and adjudicate any charge of professional misconduct against a member and shall report its findings to the Council.

9. The burden of proof required to be shown is the civil standard, the ‘balance of probabilities’.

10. Copies of the report of the findings of the Disciplinary Panel shall also be given to The Engineering Council and all Licensed Members thereof of which the member is a corporate member, subject however to the provisions of paragraphs 13-19 below in the case of an appeal.

11. If the Disciplinary Panel determines that a charge has been proved it may:
   a. expel the member from the Institute; or
   b. require the resignation of the member either immediately or at the end of the membership year; or
   c. to require the member to give an undertaking to refrain from continuing or repeating the conduct; or
   d. reprimand the member.
12. The decision of the Disciplinary Panel shall be communicated to both the member and the complainant. Such communication will be made in writing by the Chief Executive.

Appeals

13. The complainant shall have the right of appeal against the decision of the Investigating Panel

14. The member shall have the right to appeal against the decision of the Disciplinary Panel

15. Leave to appeal may be granted on the following grounds:
   - Jurisdiction
   - Procedure
   - Perversity
   - New Evidence
   - Proportionality

16. Any appeal shall be made in writing to the Chief Executive at the office of the Institute within twenty-one days of the posting of the notification of the decision of the relevant Panel.

17. Appeals shall be considered by an Appeal Panel established by the Council and comprising three members, none of whom shall have been concerned with the case at an earlier stage. The Appeal Panel shall have jurisdiction over all categories of membership irrespective of whether or not the appellant is registered with The Engineering Council.

18. The appellant shall be entitled to a second and final appeal which must be made in writing to the Chief Executive within 21 days of the posting of the notification of the decision of the Appeals Panel. The Council shall appoint independent Assessors who are not members of IHEEM. The Assessors may take written statements and may call the parties for interview.

19. In disciplinary cases where the appellant is to be expelled from the Institute or required to resign and the appellant is also registered with The Engineering Council through the Institute, the Institute shall advise the candidate of their right to appeal to the Engineering Council on the grounds of perversity or process. It shall advise the Engineering Council of any person who will lose their registration as a result of dismissal/resignation in these circumstances.

20. The decision of the Assessors shall be final.

21. Appeal against the decision of the Assessors can only be made to the Courts.

22. If a member is to be expelled or required to resign, but wishes to appeal against the decision, no notification shall be sent to any member or Licensed Member of the Engineering Council until after the appeal has been heard.

23. An impartial record should be made of every preliminary investigation and of each hearing within the disciplinary and appeals process. The record should comprise:
   a) A copy of all written evidence submitted;
   b) A summary of the oral evidence in support of the alleged breach and in rebuttal or mitigation, including any salient points elicited in cross-examination;
   c) A summary of the Panel’s reasons for its decision.
24. A member who resigns after a complaint has been made, or whose membership would be terminated for non-payment of subscriptions, should be deemed to remain in membership until the disciplinary process has reached its final conclusion.

**Engineering Council Registrants**

25. Any member who is also an Engineering Council Registrant registered through the Institute and who is expelled from membership of the Institute shall cease to be a Registrant with effect from the conclusion of the disciplinary process (including any Appeal either to the Licensed Member or to the Engineering Council).

Once the member has been informed that they are the subject of disciplinary proceedings by the Institute, they shall not seek to transfer their registration to another Licensed Member or Professional Affiliate before the disciplinary process is complete.

If a member who is registered with another Licensed Member or Professional Affiliate is expelled from the Institute, the Engineering Council will inform the Licensed Member or Professional Affiliate through which they are registered so that it can decide what action to take.

26. Where a Registrant is expelled for any reason, the Institute shall inform the Engineering Council.

**Costs**

27. If the Disciplinary Panel decides that a complaint has been substantiated, it shall have power to order the member concerned to pay a specified sum towards the relevant costs, both direct and incidental, of the Investigating Panel and the Disciplinary Panel.

28. If the case is dismissed, the Disciplinary Panel shall be empowered to order that the whole or part of such costs shall be paid from the funds of the Institute and, where appropriate, to seek to recover the whole or part of the expenditure from the complainant.

29. In either event, the Disciplinary Panel shall have complete discretion as to whether and in what manner it should exercise the powers conferred upon it by the Regulations.

These **Disciplinary Regulations** were approved by the IHEEM Council on 5 November 2019